

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

2015 SEP 22 AM 10 35

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

STEPHAN HARRIS, CLERK
CHEYENNE

UNITED STATES OF AMERICA,

Plaintiff,

v.

WYOMING AND COLORADO RAILROAD
COMPANY, INC., *et al.*,

Defendants.

)
) No. 2:06-cv-00184-ABJ
)
) **FINAL JUDGMENT ON**
) **REMAND**
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THIS MATTER having come before the Court on remand following the Supreme Court's opinion and judgment in *Marvin M. Brandt Revocable Trust v. United States*, 134 S. Ct. 1257, 1264–66 (2014), wherein the Court held that rights-of-way issued under the General Railroad Right-of-Way Act of 1875 (“1875 Act”), 18 Stat. 482, 43 U.S.C. §§ 934–939, were easements that terminated upon abandonment by the railroad. Based upon this ruling, the Court reversed the part of the judgment of the U.S. Court of Appeals for the Tenth Circuit that had affirmed this Court's judgment quieting title in favor of the United States to that portion of the 1875 Act railroad right-of-way that had traversed the property of Defendants, Marvin M. Brandt Revocable Trust and Marvin M. Brandt, Trustee (“collectively “the Trust”), and remanded for further proceedings. *Id.* at 1269.

On May 5, 2014, following remand from the Supreme Court, the Tenth Circuit reversed that part of this Court's judgment addressing the railroad right-of-way and remanded for further proceedings consistent with the Supreme Court's decision. *United States v. Brandt*, 559 F.

App'x 717, 718 (10th Cir. 2014). The Tenth Circuit also reaffirmed its original judgment in all other respects and affirmed this Court's "judgment with respect to the Forest Service Road 512 issues." *Id.* at 718.

Accordingly, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. That on or before January 15, 2004, defendant Wyoming and Colorado Railroad Company, Inc. ("WYCO"), abandoned its railroad right-of-way, being the same right-of-way granted under the 1875 Act to the Laramie, Hahn's Peak and Pacific Railroad Company, documented by the "Proof of Construction and Relinquishment of certain Grants accepted" certificate as per Bureau of Land Management File No. WYC04128 (as shown on the Second Amended Definite Location Plat of February 4, 1915). A portion of this railroad right-of-way traversed the property owned by the Trust, *i.e.*, the same land conveyed to Melvin M. Brandt and Lula M. Brandt from the United States by Patent Number 49-76-0031, dated February 18, 1976.

2. Upon abandonment of the railroad right-of-way by WYCO, the easement terminated and the Trust's property became unburdened by the railroad right-of-way, and the United States has no residual interest in the railroad right-of-way.

3. Accordingly, all right, title, and interest of the Trust's property that was formerly burdened by the railroad right-of-way is hereby vested and quieted in the Trust, and the Trust is entitled to the quiet and peaceful use, enjoyment, and possession of that property.

4. In all other respects, this Court's Judgment entered in this matter on March 2, 2008 (Doc. 200) is reaffirmed. Title to the right-of-way for Forest Service Road 512, called Platte Access Road No. 512, which was reserved in Patent Number 49-76-0031, traversing the

property owned by the Trust, and the only road which is the subject of the Trust's Second Counterclaim, remains quieted in favor of the United States.

DATED this 22nd day of September, 2015.



United States District Judge